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FEB 14 2006

ATTEST  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

DOCKET NO. 1657

FILED JUDICIAL PANEL ON  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA  
FEB 14 2006  
2006 FEB 15 PM 3:14  
FILED  
CLERK'S OFFICELORETTA G. WHYTE  
CLERK**BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION****IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS  
LIABILITY LITIGATION****SECT. L MAG 3****BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.  
LOWELL JENSEN, J. FREDERICK MOTZ,\* ROBERT L. MILLER, JR.,  
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL****TRANSFER ORDER**

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in 80 actions and by health care defendants in the District of Massachusetts action and the Western District of Texas action to vacate the Panel's orders conditionally transferring the actions listed on Schedule A to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending motions to remand to state court can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

Some opposing plaintiffs and the health care defendants argue that the presence of individual and/or local questions of fact as well as differing legal theories should militate against inclusion of these actions in MDL-1657 proceedings. We are unpersuaded by these arguments. Inclusion of these actions in Section 1407 proceedings has the salutary effect of placing all the related actions before a single judge who can formulate a pretrial program that: 1) prevents repetition of previously considered matters;

\* Judge Motz took no part in the decision of this matter.

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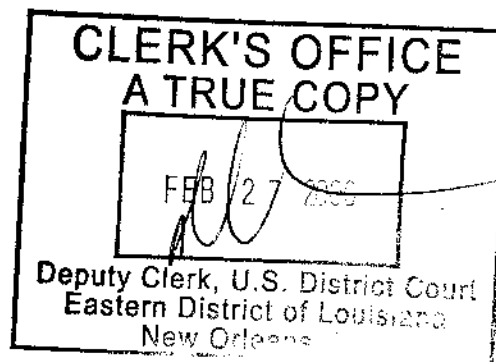
2) allows pretrial proceedings with respect to any non-common issues to proceed concurrently with pretrial proceedings on common issues, *In re Multi-Piece Rim Products Liability Litigation*, 464 F.Supp. 969, 974 (J.P.M.L. 1979); and 3) ensures that pretrial proceedings will be conducted in a manner leading to the just and expeditious resolution of all actions to the overall benefit of the parties. *See In re StarLink Corn Products Liability Litigation*, 152 F.Supp.2d 1378 (J.P.M.L. 2001). It may be, on further refinement of the issues and close scrutiny by the transferee judge, that some claims or actions can be remanded to their transferor districts for trial in advance of the other actions in the transferee district. Should the transferee judge deem remand of any claims or actions appropriate, procedures are available whereby this may be accomplished with a minimum of delay. *See Rule 7.6, R.P.J.P.M.L.*, 199 F.R.D. at 436-38.

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



Wm. Terrell Hodges  
Chairman



## SCHEDULE A

MDL-1657 -- In re Vioxx Marketing, Sales Practices and Products Liability LitigationMiddle District of AlabamaEDLA  
SEC. L/3*Theatus Rawdon Beaty v. Merck & Co., Inc., et al.*, C.A. No. 2:05-880

06-722

Southern District of Illinois*Elvin Elswick v. Merck & Co., Inc., et al.*, C.A. No. 3:05-645

06-723

*Stanely McNulty v. Merck & Co., Inc., et al.*, C.A. No. 3:05-661

06-724

*Gary Grizzell v. Merck & Co., Inc., et al.*, C.A. No. 4:05-4170

06-725

Eastern District of Kentucky*Ronald E. Smith, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-68

06-726

*James Parsons, et al. v. Merck & Co., Inc.*, C.A. No. 5:05-412

06-727

*Gene Patterson, et al. v. Merck & Co., Inc.*, C.A. No. 5:05-413

06-728

*Maudie F. Jones, et al. v. Merck & Co., Inc.*, C.A. No. 5:05-425

06-729

*Gerlene Stacy v. Merck & Co., Inc.*, C.A. No. 6:05-525

06-730

*Bonnie Engle v. Merck & Co., Inc.*, C.A. No. 6:05-565

06-731

*James T. Bevins, et al. v. Merck & Co., Inc.*, C.A. No. 7:05-317

06-732

*James Howell, et al. v. Merck & Co., Inc.*, C.A. No. 7:05-330

06-733

Western District of Kentucky*Elvis Meadors v. Merck & Co., Inc., et al.*, C.A. No. 1:05-136

06-734

*Harold Reiser v. Merck & Co., Inc., et al.*, C.A. No. 1:05-156

06-735

*James W. Thompson, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-549

06-736

*Jerry W. Kinslow, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-550

06-737

*Carl D. Mahan, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-565

06-738

*Samuel Bain, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-566

06-739

*Wenceslaus Klimesh, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-568

06-740

*Glen Kelly v. Merck & Co., Inc.*, C.A. No. 3:05-569

06-741

*Barry M. Kinslow v. Merck & Co., Inc.*, C.A. No. 3:05-570

06-742

*Barbara A. Reeves, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:05-571

06-743

*Betty Wooldridge, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-572

06-744

*Bernice Eversole, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-573

06-745

*Earl G. Crank, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-581

06-746

*Phillip Metcalf, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:05-582

06-747

*Allen Dowell, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-585

06-748

*Lois Zoll v. Merck & Co., Inc.*, C.A. No. 3:05-586

06-749

*Helen Dennison v. Merck & Co., Inc.*, C.A. No. 3:05-587

06-750

*Lana Yaggie, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-588

06-751

*Kim Young, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-589

06-752

*William E. Garrett, et al. v. Merck & Co., Inc.*, C.A. No. 3:05-590

06-753

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EDLA  
SEC. L/3Western District of Kentucky (continued)

<i>William M. Adams, Jr., et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-591</i>	06-754
<i>Linda Howard, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-592</i>	06-755
<i>Richard Wigginton, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-593</i>	06-756
<i>Sharon McDonald v. Merck &amp; Co., Inc., et al., C.A. No. 3:05-595</i>	06-757
<i>Dennie Miller, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-600</i>	06-758
<i>David G. Thomas v. Merck &amp; Co., Inc., C.A. No. 3:05-601</i>	06-759
<i>George R. Hubbard, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-602</i>	06-760
<i>Joseph E. Newton, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-603</i>	06-761
<i>Elmer Smith, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-605</i>	06-762
<i>Violet Bailey, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-606</i>	06-763
<i>Joyce Skillman v. Merck &amp; Co., Inc., C.A. No. 3:05-607</i>	06-764
<i>Charles Ball, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-608</i>	06-765
<i>Lucky Daniels, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-609</i>	06-766
<i>Lovell S. Cottrell, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-610</i>	06-767
<i>Charles Orange, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-615</i>	06-768
<i>Earl J. Estep, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-616</i>	06-769
<i>Michael T. Mooney, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-617</i>	06-770
<i>Juanita King v. Merck &amp; Co., Inc., C.A. No. 3:05-618</i>	06-771
<i>Marjorie Staten, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-619</i>	06-772
<i>Bernard Griffin, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-620</i>	06-773
<i>Anthony Long, etc. v. Merck &amp; Co., Inc., C.A. No. 3:05-621</i>	06-774
<i>Cleo D. Gilbert, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-622</i>	06-775
<i>Vanessa Wisenbaler v. Merck &amp; Co., Inc., C.A. No. 3:05-626</i>	06-776
<i>Charles Nantz, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-627</i>	06-777
<i>Annie Hendrix v. Merck &amp; Co., Inc., C.A. No. 3:05-628</i>	06-778
<i>Carolyn A. Ward v. Merck &amp; Co., Inc., C.A. No. 3:05-629</i>	06-779
<i>William E. Kaufman, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-630</i>	06-780
<i>Donna C. Russel, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-631</i>	06-781
<i>Delbert Rakes, et al. v. Merck &amp; Co., Inc., C.A. No. 3:05-632</i>	06-782
<i>Timmy Glass, et al. v. Merck &amp; Co., Inc., et al., C.A. No. 3:05-646</i>	06-783

District of Massachusetts

<i>Kathleen Martin v. Merck &amp; Co., Inc., et al., C.A. No. 1:05-11716</i>	06-784
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Eastern District of Missouri

<i>Michael Elder, et al. v. Merck &amp; Co., Inc., et al., C.A. No. 4:05-1268</i>	06-785
<i>Nina Cook, et al. v. Merck &amp; Co., Inc., et al., C.A. No. 4:05-1272</i>	06-786
<i>George Likins, et al. v. Merck &amp; Co., Inc., et al., C.A. No. 4:05-1273</i>	06-787
<i>Tyrone Dawson, et al. v. Merck &amp; Co., Inc., et al., C.A. No. 4:05-1291</i>	06-788
<i>Evelyn Light, et al. v. Merck &amp; Co., Inc., et al., C.A. No. 4:05-1463</i>	06-789
<i>Fulton Lacy, et al. v. Merck &amp; Co., Inc., et al., C.A. No. 4:05-1465</i>	06-790

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Eastern District of Missouri (continued)EDLA  
SEC. L/3

<i>Roberta Sterling, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-1466	06-791
<i>Betty Jean Gant et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-1490	06-792
<i>Jane Latham, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-1491	06-793
<i>Jefferson Euell, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-1497	06-794
<i>Barbara Gustin, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-1514	06-795
<i>Martin Zide, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-1520	06-796
<i>Ginger Hugo, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 4:05-1557	06-797

Western District of Missouri

<i>Jimmie Collins v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 3:05-5142	06-798
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Southern District of New York

<i>Douglas A. Spalter, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 1:05-7301	06-799
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Western District of New York

<i>Brian North v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 6:05-6475	06-800
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Eastern District of Tennessee

<i>James E. Queen, et al. v. Merck &amp; Co., Inc.</i> , C.A. No. 1:05-283	06-801
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Western District of Texas

<i>Sulema L. Banda, et al. v. Merck &amp; Co., Inc., et al.</i> , C.A. No. 5:05-950	06-802
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